THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17488 of 1996

Dated:23.3.2007

Between
M/s.Cement Corporation of India Limited,
Rep., by its Dy.Manager I.S.Rama Rao,
Yerraguntla

.....Petitioner

and

1. Industrial Tribunal cum Labour Court,
Ananthapur and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17488 of 1996

ORDER:

This writ petition is filed seeking a writ of Certiorari to call for the records relating to the Award made in I.D.No.158 of 1986 dated 25.4.1996 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur and to quash the same as arbitrary and illegal.

The petitioner is the Management and the 2nd respondent is the Union.

It appears that 2nd respondent raised a Charter of demands and when the Conciliation failed, the matter was referred to the Government for being referred to the Industrial Tribunal. The Government, in turn, framed the following issue "Whether the demand of the Union that grade promotion should be given to

all the employees who have completed three years of service from the date of joining with arrears is justified, if so to what relief the workers are entitled?" and referred the matter to the Industrial Tribunal-cum-Labour Court for its adjudication.

It was the case of the 2nd respondent-Union that on the submission of charter of demands in respect of their service conditions through a letter dated 22.8.1985, the State Conciliation Officer and Joint Commissioner of Labour, Andhra Pradesh, took up the dispute. About 16 issues were raised by the workmen and after joint meetings, the Conciliation Officer submitted his report on 12.1.1986 to the Labour Department. The employees/workmen were on strike after the termination of the conciliation proceedings and the Government of Andhra Pradesh *vide* G.O.Rt.No.58 dated 16.1.1986 referred only one item i.e., the dispute under reference for adjudication and refused to refer the remaining

15 demands of the workmen. The present demand was for grade promotion. On 31.8.1984 the Management entered into an agreement with the CCI Ltd., Workers Union. According to the said agreement, the petitioner-Corporation and 2nd respondent-Union have agreed in first paragraph that the employees, who have put in 3 years of service in posts having multiple grade and for which action was initiated earlier, may be issued promotion orders depending upon the merits of the case. The said agreement has been signed by the Officers of the Corporation after full discussion regarding the grade promotions with the recognized Union in spite of their circulars dated 15.12.1983 in reference No.PQ/IR/17/83 dated 15.12.1983 and the Cement Corporation Limited, New Delhi. Pursuant to the said agreement the CCI Yerraguntla Unit, already gave grade promotions to some of their workers in its official order No. P &

A/16/84/12805 dated 30.10.1984 (Official order No.472). Thus, despite the fact that promotion of the employees will be only after completion of 6 years in the existing grade, subject to the suitability, the management agreed to 3 years promotion policy and implemented the same, but after the lapse of the agreement, the Management has resorted to the original 6 years promotion policy. In fact, it is not necessary for the Management to review the old promotion policy, which has been made in the interest of the promotion of the cordial relationship between the employees and employer and to promote industrial harmony. Except the ground that their promotion policy is different, which admittedly was not in operation after the agreement dated 31.8.1984, no other ground was raised by the management and in the absence of any other tenable ground, the claim of the workmen to continue the promotion policy of the earlier agreement, is a fair and just demand.

It was the case of the petitioner-Management that CCI is a multi unit organization having 10 units all over India with its corporate office at New Delhi, which monitors the promotion policy in regard to wage board employees of all the 10 units. The guidelines of the promotion policy are set up by the corporate office at New Delhi and no local management of any of the 10 units can deviate from the guidelines issued by the corporate office. The Corporation enforces of any particular unit as all units have perforce to comply with and follows the guidelines of the common promotion policy laid down by the Corporate office. The allegations that the employees went on strike after the conciliation proceedings before the state conciliation office and Joint Commissioner of Labour, Andhra Pradesh failed is not correct. On the contrary, the employees Union instigated a strike from 6.1.1986 during the pendency of the conciliation proceedings, before the Joint

Labour Commissioner attended on 12.12.1985, for the last time, and did not attend any conciliation meeting thereafter. The Conciliation Officer submitted his failure report on 12.1.1986. As the employees at the instigation of the employees Union went on strike during pendency of the conciliation proceedings, the Government of Andhra Pradesh in G.O.Rt.No.59, dated 16.1.1986 declared the strike as illegal and prohibited the strike from its very commencement ie., 6.1.1986. The Government also issued G.O.Rt.No.58, dated 16.1.1986 referring only one of the demands of the employees union for adjudication. In the agreement dated 31.8.1984 between the Management and the workers union it was mentioned that in view of the insistence of the workers union, at least the multiple grades where the vacancies in higher grade exist and for which action was initiated in the past to fill up the posts by conducting interviews, decision should be taken and

promotion orders be issued immediately in order to maintain cordial industrial relations. This was one time arrangement as per the terms of the agreement. The allegation that the respondent Corporation of India did not discuss the issue with the representatives of the employees union is false. Thus, the claim statement filed by the Union is devoid of merits and the same is false, incorrect and untenable.

During the enquiry, before the Labour Court, the General Secretary of the CCI Employees Union was examined as WW1 and Ex.W1 was marked. On behalf of the Management, none were examined, however Exs.MWs.1 to 18 were marked.

After a detailed consideration of the entire material placed before it, the Labour Court came to a conclusion that the demand of the Union that the grade promotions should be given to non-multiple grade employees who have completed three years of service from the date of joining with arrears is held as not

justified. However, the demand of the Union for grade promotions in respect of multiple grade employees is held partially justifiable and those of the employees who have completed 5 years of service as on the date of publication of award shall be entitled for promotions for every 5 years but there is no question of payment of arrears to them. Aggrieved by the same, the present writ petition is filed.

It appears that as per the agreement, the employees who have put in three years of service in multiple grade in respect of whom action had earlier been initiated were entitled for promotion depending upon the merits of every individual case. Further, the employees who are not in multiple grade, the promotion to the next higher grade should be as per the instructions of the Corporate office dated 21.8.1980. It was also specifically agreed by the Union that this one time settlement shall not be cited as a precedent by it in future and

the existence of rules for promotion as maintained from time to time shall be applicable in future cases for promotion. In the teeth of this agreement and evidence, the Labour Court has rightly came to a conclusion that the automatic promotions in respect of multiple grade employees, no doubt the demand for promotion, is for every 3 years. The demand was raised in the year 1985. For all these years, promotions are being made as per the norms fixed by the Corporate office. Therefore, if the demand is considered with retrospective effect i.e., from the date of demand, it may topple the entire promotion list and it may lead to frustration among the employees who are benefited all these days. Therefore, it would meet the ends of justice, if the necessary directions are given to the management to implement the promotion policy which is felt just by the Court from the date of publication of the award. Insofar as the actual period of promotion is concerned, in

respect of the multiple grade employees as per the directions of the Corporate office is for every 6 years while the demand of the union is for every 3 years. In the facts and circumstances of the case, and also, in view of the submission of the learned advocate for the respondent that the demand by Hindu Mazdoor Sabha of India Trade Union Congress and Centre of Indian Trade Unions which represents the entire units of CCI charter of demands dated 1.4.1996 is also for the grade promotions for every 5 years. Thus, the Labour Court has rightly answered the reference as under:

> "*The demand of the union that grade promotion should be given to non-multiple grade employees who have completed 3 years of service from the date of joining with arrears is held as not justified?*
>
> *However, the demand of the union for grade promotions in respect of multiple grade employees is held partially justifiable and those of the employees who have completed 5*

years of service as on the date of publication of award shall be entitled for promotions for every 5 years but there is no question of payment of arrears to them."

I am of the opinion that in the facts and circumstances of the case, the award passed by the Labour Court cannot be said to be either arbitrary or illegal and the same does not call for any interference by this Court under Article 226 of the Constitution of India. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

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22-03-2007

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